

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

SEP 1 2 2005

INDIANA UTILITY
REGULATORY COMMISSION
CAUSE NO. 42752

IN THE MATTER OF THE PETITION OF THE)
STUCKER FORK CONSERVANCY DISTRICT FOR:)
1.) ADDITIONAL TERRITORIAL AUTHORITY TO)
RENDER SERVICE OF WATER SUPPLY TO)
ADDITIONAL USERS OUTSIDE OF ITS)
BOUNDARIES IN AN AREA IN WASHINGTON)
AND JENNINGS COUNTIES, INDIANA: AND)
2.) APPROVAL OF A NEW SCHEDULE OF RATES)
AND CHARGES FOR WATER SERVICE AND A)
SCHEDULE FOR PHASING-IN SAID RATES AND)
CHARGES)

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") caused the following entry to be made:

On July 20, 2005, the Presiding Officers issued a Docket Entry in which they granted a *Motion to Stay* ("Motion to Stay") filed by the Indiana Office of Utility Consumer Counselor ("OUCC") and vacated the Evidentiary Hearing scheduled for August 4, 2005. In the Docket Entry the Presiding Officers also indicated that the Stucker Fork Conservancy District ("Stucker Fork" or "Petitioner") should advise the Presiding Officers by August 1, 2005, of its intention to comply with the specific timeframes for discovery contained in the Commission's January 19, 2005 Prehearing Conference Order, and its ability or willingness to proceed with this matter generally. Pursuant to the terms of the Docket Entry, if the Petitioner determined that it was prepared to proceed in this matter its filing on August 1, 2005 was to include a joint proposed procedural schedule that outlined the dates for additional prefled testimony in this Cause, along with a proposed date for the Evidentiary Hearing.

On Monday August 1, 2005, the Presiding Officers were contacted by telephone by Petitioner's Counsel who indicated that he was attempting to resolve this matter by agreement and would comply with the requirements of the Docket Entry later in the week. These procedural discussions were addressed in an August 2, 2005 letter to the Presiding Officers. In response, to the August 2, 2005 letter the OUCC submitted its own letter on August 5, 2005. While the Petitioner's letter contained a proposed procedural schedule, in its letter the OUCC indicated that the dates proposed were not acceptable. The Petitioner's letter was not filed in this proceeding and, based on our review of the OUCC's letter, did not reflect an agreed upon procedural schedule. Therefore, the Petitioner's August 2, 2005 letter was not fully responsive to the specific requirements set forth in our July 20, 2005 Docket Entry.

On August 12, 2005, Intervenor Morgan Foods, Inc., ("Intervenor" or "Morgan Foods") filed a *Motion for Stay of Further Proceedings* ("Intervenor's Motion to Stay"). On September 2, 2005, Stucker Fork filed *Petitioner's Verified Response to Intervenor's Motion for Stay* ("Stucker Fork's Response" or "Response"). The Response was not timely filed in contravention to the Commission's procedural rules.¹ On September 9, 2005, Morgan Foods filed *Intervenor's Reply to Petitioner's Response to Intervenor's Motion to Stay* ("Reply"). Intervenor's Motion to Stay; Stucker Fork's Response; and, the Reply filed in this Cause, each discuss a permit ("Permit") that is currently being considered by the Indiana Department of Environmental Management ("IDEM") that addresses the possible storage of polychlorinated biphenyls ("PCBs") at 3874 Marble Hill Road in Jefferson County, Indiana. Morgan Foods indicates that the issuance of the Permit could have an impact on our consideration of the issues in this Cause and that this matter should be stayed until IDEM has acted on the Permit. The Petitioner indicates in its Response that the Commission should deny Intervenor's Motion to Stay and order the prompt resumption of the procedural schedule.

The Presiding Officers note that the procedural schedule in this matter is currently stayed. The issues discussed in Intervenor's Motion to Stay, rather than supporting further delay in this proceeding, seem to be the type of issues that could appropriately be addressed as part of its case-in-chief testimony, which can only be prepared and filed with the Commission in accordance with a revised procedural schedule. Therefore, we find that it would not be appropriate to further delay a proceeding that has already been delayed far too long. Accordingly, we deny the Intervenor's Motion to Stay and revise the procedural schedule as follows:


1. **Public's and Intervenors' Prefiling Date.** Public and all Intervenors should prefile with the Commission the prepared testimony and exhibits constituting their respective cases-in-chief on or before October 31, 2005. Copies of same should be served upon all parties of record.

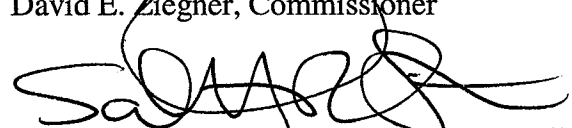
2. **Petitioner's Rebuttal Prefiling.** The Petitioner should prefile with the Commission its prepared rebuttal testimony on or before November 16, 2005. Copies of same should be served upon all parties of record.

3. **Evidentiary Hearing on the Parties' Cases-In-Chief.** In the event this Cause is not settled the cases-in-chief of the Petitioner, Public and any Intervenors should be presented in an Evidentiary Hearing on December 5, 2005 at 9:30 a.m., in Room E306 of the Indiana Government Center South, Indianapolis, Indiana. If the parties reach settlement, the agreement should be submitted to the Commission five (5) business days prior to the Evidentiary Hearing.

¹ Pursuant to 170 IAC 1-1.1-12(e), "Any response to a written motion must be filed with the Commission within ten (10) days after service of the motion unless the presiding officer prescribed a different time." While we considered Stucker Fork's Response in this Docket Entry, the Presiding Officers remind Petitioner's Counsel that it is his responsibility as an attorney practicing before this Commission to understand and adhere to its procedural rules.

IT IS SO ORDERED.



David E. Ziegner, Commissioner

Scott R. Storms, Chief Administrative Law Judge

Date: _____

September 12, 2005